

01
02
03
04
05
06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 NATHANIEL JAMES DAVIS, JR.,) CASE NO. C09-0574-RSM-MAT
09 Plaintiff,)
10 v.) ORDER DENYING PLAINTIFF'S
11 STATE OF WASHINGTON, et al.,) SECOND MOTION FOR
12 Defendants.) APPOINTMENT OF COUNSEL
13 _____)

14 This matter comes before the Court on plaintiff's second motion for appointment of
15 counsel. The Court, having reviewed plaintiff's motion, and the balance of the record, does
16 hereby find and ORDER:

17 (1) Plaintiff's second motion for appointment of counsel (Dkt. 14) is DENIED. As
18 plaintiff was previously advised, there is no right to have counsel appointed in cases brought
19 under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request
20 counsel to represent a party proceeding *in forma pauperis*, the Court may do so only in
21 exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986);
22 *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th

01 Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the
02 likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se*
03 in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Plaintiff
04 has not, at this juncture, demonstrated any likelihood that he will succeed on the merits of his
05 case. Thus, plaintiff has not demonstrated that this case involves exceptional circumstances
06 which warrant appointment of counsel.

07 (2) The Clerk shall send a copy of this Order to plaintiff.

08 DATED this 12th day of August, 2009.

09
10 

11 Mary Alice Theiler
United States Magistrate Judge